IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

WP(C).No. 20136 of 2007(V)

PETITIONERS:
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1. DHARMARTHA DAYINI SABHA, KARIMPADOM, CHENNAMANGALAM P.O., REP. BY ITS SECRETARY, SHRI.T.V.SALIM, THARAYIL HOUSE, KARIMPADOM, CHENNAMANGALAM P.O.

2. P.K.SATHYAN, S/O.KUTTAN, MANAGER, D.D.SABHA HIGH SCHOOL, KARIMPADOM, CHENNAMANGALAM VILLAGE, PARAVUR TALUK.

BY ADV. SRI.DINESH R.SHENOY

RESPONDENTS:
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1. STATE OF KERALA, REP. BY THE PRINCIPAL SECRETARY TO GOVERNMENT, GENERAL EDUCATION (S) DEPARTMENT, THIRUVANANTHAPURAM.

2. THE DISTRICT EDUCATIONAL OFFICER, ALUVA EDUCATIONAL DISTRICT, MINI CIVIL STATION, ALUVA.

3. K.K.SATHEESAN, S/O.KUMARAN, KUNNUKATTIL HOUSE, KARIMPADOM, CHENNAMANGALAM P.O.

4. SUJAY SATHYAN, S/O.SATHYAN, KALATHINGAL HOUSE, KARIMPADOM, CHENNAMANGALAM P.O.

5. T.G.ANOOP, S/O.GURUDEVAN, THENAYATT HOUSE, KARIMPADOM P.O., CHENNAMANGALAM.

BY ADV. SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 TRUE PHOTOCOPY OF THE JUDGMENT DATED 23.7.2003 IN CRP NO.1361 OF 2001 HIGH COURT OF KERALA.

EXHIBIT P2 TRUE PHOTOCOPY OF THE JUDGMENT DATED 9.3.2005 IN W.A. NO.480 OF 2005.

EXHIBIT P3 TRUE PHOTOCOPY OF THE ORDER DATED 29.11.2006 IN I.A. .NO.4478 OF 2006 IN FAO NO.280 OF 2006 HIGH COURT OF KERALA.

EXHIBIT P4 TRUE PHOTOCOPY OF THE NOTICE DATED NIL ISSUED BY THE OFFICE BEARS OF THE SNDP TALUK UNION, NORTH PARAVUR.

EXHIBIT P5 TRUE PHOTOCOPY OF THE NOTICE ISSUED BY THE THIRD RESPONDENT CONVENING AN ELECTION GENERAL BODY (DATED 4.5.2007).

EXHIBIT P6 TRUE PHOTOCOPY OF THE PLAINT FILED IN UNNUMBERED O.SL NO..../2007 DISTRICT COURT (VACATION COURT), ERNAKULAM.

EXHIBIT P7 TRUE PHOTOCOPY OF THE ORDER DATED 18.5.2007 IN W.P(C) NO.15276/2007, HIGH COURT OF KERALA.F

EXHIBIT P8 TRUE PHOTOCOPY OF THE LETTER DATED 23.5.2007 ISSUED BY THE FIRST PETITIONER TO THE SECOND RESPONDENT.

EXHIBIT P9 TRUE PHOTOCOPY OF THE G.O.(Rt.) NO.2612/2007/G.Edn. DATED 11.6.20907 ISSUED BY THE FIRST RESPONDENT.

EXHIBT P10 TRUE PHOTOCOPY OF THE I.AL. NO.6648/2007 IN W.P(C) NO.15276 OF 2007.

EXHIBIT P11 TRUE PHOTOCOPY OF THE ORDER DATED 26.6.2007 ISSUED BY THE SECOND RESPONDENT.

EXYHIBIT P13 TRUE PHOTOCOPY OF THE APPOINTMENT ORDER DATED 16.7.2007 SENT BY THE THIRD RESPONDENT WITH ANNEXURES.

RESPONDENTS' EXHIBITS: NIL

K. PADMANABHAN NAIR, J.

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W.PC) NO. 20136 OF 2007

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Dated this the 22nd day of August, 2007

J U D G M E N T

This Writ Petition is filed challenging Exhibit P12 order passed by the District Educational Officer, Aluva Educational District, approving the appointment of Shri K.K.Satheesan, Kunnukkattil House, Karimpadam as the Manager of an aided School. According to the petitioners, the persons who claims to be the Manager of the School is an Usurper and not a member of the Sabha and has no right or authority to function as the Manager. Respondents have denied the contentions raised by the petitioners.

2. I do not think it necessary to consider any of the contention raised in the Writ Petition on its merits. In paragraph 5 of the counter affidavit it is stated by the contesting respondents that a statutory remedy is provided to the petitioners under Rule 4(3) of Chapter III of the Kerala Education Rules against Exhibit P12 order approving the appointment of a Manager by an Educational Agency. It is also stated that appeal against the order has to be filed before the

Director of Public Instruction within a time frame. Exhibit P12 order was passed on 26.6.2007 and within three days petitioners have filed this Writ Petition. This Court passed an interim order staying the operation and implementation of Exhibit P12 order and that interim order is still in force. Considering the fact that petitioners are having an effective alternative remedy, it is only just and proper to dispose of this Writ Petition without prejudice to the rights of the petitioners to challenge Exhibit P12 order by filing appeal before the Appellate Authority within three weeks from the date of receipt of a copy of this judgment. Even if the time prescribed for pursuing such a remedy is over, if the appeal is filed within the time allowed by this judgment, the Appellate Authority shall treat the appeal as one filed within the time prescribed and dispose of the same on its merits in accordance with law. I am also of the view that the interim passed by this Court in the Writ Petition and extended from time to time can also be kept in tact for a period of six weeks from today so as to enable the petitioners to file the statutory appeal and seek interim relief.

In the result, the Writ Petition is disposed of in the following manner: It is open to the petitioners to challenge Exhibit P12 order by filing an appeal before the Appellate Authority as provided under Rule 4(3) of Chapter III of K.E.R. within three weeks from the date of receipt of a copy of this judgment. If such an appeal is filed, the Appellate Authority shall treat the same as one filed within the statutory period allowed under the KER and consider and dispose of the same in accordance with law with due notice to the parties. In order to enable the petitioners to obtain copy of this judgment and file appeal before the Appellate Authority, the interim order passed by this Court staying the operation and implementation of Exhibit P12 order will continue to be in force for a period of six weeks from today.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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W.P(C) 20136 OF 2007

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J U D G M E N T

22ND AUGUST, 2007